

File

Recording Requested By:

United States of America
General Services Administration
Public Building Service - 9PE
525 Market Street
San Francisco, California 94015

Recorded in the County of Sacramento
John Dark, Clerk/Recorder



37.00

199507191182 2:25pm 07/19/95

When Recorded Mail To:

Department of Toxic Substances
Control
Region 1
10151 Croydon Way, Suite 3
Sacramento, California 95827

005 13000256 13 17

R01 11 7.00 30.00 0.00 0.00 0.00 0.00 0.00

C'TC 310439W

(space above line for County Recorder's use only)

COVENANT AND AGREEMENT
TO RESTRICT USE OF PROPERTY

GROUND WATER RESTRICTION

(A PORTION OF THE SACRAMENTO STATION SITE AT THE SOUTHERN PACIFIC TRANSPORTATION COMPANY, SACRAMENTO LOCOMOTIVE WORKS, AND ADJACENT PROPERTY, SACRAMENTO, SACRAMENTO COUNTY, CALIFORNIA)

This Covenant and Agreement ("Covenant") is made on this 17th day of July, 1995, by and between the UNITED STATES OF AMERICA, GENERAL SERVICES ADMINISTRATION ("Covenantor"), which is the owner of record of certain real property situated in the City of Sacramento, County of Sacramento, State of California, described as Parcel 1 of that certain parcel map attached hereto as Exhibit "A" incorporated herein by this reference (the "Property"), and the California Department of Toxic Substances Control ("Department"), with reference to the following facts:

A. A portion of the Property, which portion is described in Exhibit "B" attached hereto and incorporated herein by this reference, is located within an area known as the Sacramento Station Site at the Southern Pacific Transportation Company ("SPTCo"), Sacramento Locomotive Works ("Railyard"). Contaminated soil and ground water have been found at various locations throughout the Railyard. A Remedial Action Plan for the Sacramento Station Site was approved by the Department on December 7, 1989. Remedial actions were taken and site closure was certified by the Department on June 21, 1994.

SPTCo - Sacramento
Federal Courthouse
Sm-B

The remainder of the Property (the "Parking Facility"), was formerly used by the City of Sacramento ("City") as a police parking facility. Three underground storage tanks containing motor oil, waste oil, and antifreeze were removed from the Parking Facility under the supervision of the County of Sacramento Environmental Management Department in December of 1989. Follow-up remedial actions were taken and site closure was certified by the County on January 24, 1990.

B. Covenantor plans to construct a high rise office building, including ancillary child care, food services, retail uses, and below ground parking, on the Property. The Property has been excavated from property line to property line to a depth of approximately +2 mean sea level, and all excavated soil has been removed from the Property.

C. Covenantor and the Department desire and intend that, for future protection of public health, safety, and the environment, the Property shall be used in such a manner as to avoid any potential harm to persons or property which could potentially result from hazardous materials in the ground water.

D. The Covenantor and the Department further desire and intend that the terms of the Covenant are for the mutual benefit of the Property, "Owners and Occupants", the Department, and the public and, therefore, shall constitute a right of entry, covenant, and restrictions held by the Department on behalf of the People of the State of California in the Property, which shall run with the land, shall inure to the benefit of the Property, future Owners and Occupants of the Property, the Department, and the public and shall apply to and bind the respective successors in interest thereof.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

GENERAL PROVISIONS

1.01 Provisions To Run with The Land. This Covenant sets forth protective provisions, covenants, restrictions and conditions, (collectively referred to as "Restrictions"), upon the Property and subject to which the Property shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and all of the Restrictions shall run with the land, and shall apply to and bind the respective successors in interest thereof. Each and all of the Restrictions are imposed upon the entire Property as mutual equitable servitudes in favor of the Property and every portion thereof. The Department's imposition of this covenant is undertaken pursuant to Section 25230(a)(1), 25355.5, and 25356.1 of the California Health and Safety Code and this Covenant runs with the land.

1.02 Concurrence of Owner Presumed. All purchasers, lessees, or occupants of the Property shall be deemed by their purchase, leasing, or occupying such Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors and assignees, and successors of such owners, heirs, successors, and assignees, that they are bound by the Restrictions as herein established, which must be adhered to for the benefit of future Owners and Occupants of the Property, the Department and the public, and that their interests in the Property will be subject to the Restrictions contained herein.

1.03 Incorporation Into Deeds and Leases. Covenantor desires and covenants, and all purchasers, lessees or occupants shall be deemed to have covenanted, that the Restrictions set out herein shall be incorporated by reference in each and all deeds and leases of the Property.

ARTICLE II

DEFINITIONS

2.01 City. "City" shall mean the City of Sacramento and shall include its successor agencies, if any.

2.02 Department. "Department" shall mean the California Department of Toxic Substances Control and shall include its successor agencies, if any.

2.03 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the Property.

2.04 Owner. "Owner" shall mean the Covenantor, its successors in interest, and their successors in interest, including heirs, and assigns, who at any time hold title to all or any portion of the Property.

ARTICLE III

DEVELOPMENT, USE AND CONVEYANCE OF THE PROPERTY

3.01 Restriction on Use. Every Owner and Occupant promises to restrict the use of the Property described in Exhibit "A" as follows:

No water from below the ground surface shall be extracted, consumed, exposed or utilized in any way without prior approval by the Department. All ground water monitoring wells, extraction systems, and associated

equipment located in the public right-of-way adjacent to the Property, required for remediation of ground water by SPTCo or its agents or successors, shall remain intact and access by the Department, SPTCo or its agents or successors, or other ground water remediation efforts in the public right-of-way deemed necessary by the Department, shall not be hindered.

3.02 Conveyance of Property. Owners and Occupants shall provide sixty (60) day advance notice to the Department and City of any sale, lease, or other conveyance of the Property or an interest in the Property to a third person. Neither the Department nor the City shall, by reason of the Covenant, have authority to approve, disapprove, or otherwise affect any sale, lease, or other conveyance of the Property or any interest in it except as otherwise provided by law or by reason of this Covenant.

3.03 Enforcement. Failure of an Owner or Occupant to comply with any of the requirements, as set forth in Section 3.01, shall be grounds for the Department, by reason of the Covenant, to enforce the Department's rights and seek appropriate redress and relief by filing civil and criminal actions against the Owner, as provided by law.

3.04 Notice in Agreements. All Owners and Occupants shall execute a written instrument which shall accompany all purchase, lease, sublease, or rental agreements relating to the Property. The instruments shall contain the following statement:

"The ground water beneath the Property (more fully described in Exhibit "A") contains hazardous substances in concentrations above background levels or site specific remediation levels approved by the Department for other uses. This statement is not a declaration that a hazard exists. However, such condition renders the land and the owner, lessee, or other occupant of the land subject to the requirements, restrictions, provisions and limitation contained in Chapter 6.5 and Chapter 6.8 of Division 20 of the Health and Safety Code."

ARTICLE IV

TERMINATION

4.01 Termination. Any Owner or, with the Owner's consent, any Occupant of the Property may apply to the Department for a

termination of the Restrictions as they apply to the Property or any portion of it. Such application shall be made in accordance with Section 25234 of the California Health and Safety Code.

4.02 Term. Unless terminated in accordance with paragraph 4.01 above, by law or otherwise, this covenant shall continue in affect in perpetuity.

ARTICLE V

MISCELLANEOUS

5.01 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property to the general public or for any purposes whatsoever.

5.02 Notices. Whenever any person shall desire to give or serve any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed affected (1) when delivered, if personally delivered to the person being served or to any officer of a corporate party being served, or (2) three business days after deposit in the mail if mailed by United States mail, postage paid, certified, return receipt requested to the record owner or (3) until record ownership changes:

To: General Services Administration
Office of Regional Counsel (9L)
525 Market Street, 29th Floor
San Francisco, California 94105-2799

In every case, copies shall be sent to:

Department of Toxic Substances Control
Region 1
Site Mitigation Branch Chief
10151 Croydon Way, Suite 3
Sacramento, California 95827

And

Director of Planning Department
City of Sacramento
1231 "I" Street
Sacramento, California 95814

5.03 Partial Invalidity. If any portion of the Restrictions or terms set forth herein are determined to be invalid for any reason, the remaining portions shall remain in full force and effect as if such portion had not been included herein.

5.04 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.05 Recordation. This instrument shall be executed by the Covenantor, and by the Director, California Department of Toxic Substances Control. This instrument shall be recorded by Covenantor with the County Recorder of the County of Sacramento within ten (10) days after the date of execution by both parties in accordance with the recording requirements of the California Health and Safety Code, Section 25230.

5.06 References. All references to Code sections include successor provisions.

5.07 Rights of Owners and Occupants. Nothing in this Covenant confers any rights to the Owner or Occupant above and beyond those otherwise in existence under state law.

IN WITNESS WHEREOF, the parties execute this Covenant on the date first set forth above.

Owner:

UNITED STATES OF AMERICA, GENERAL
SERVICES ADMINISTRATION

By: Barry K. Dauphinee

Title: Contracting Officer

Date: July 19, 1995

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

By: James G. Ford

Title: Acting Branch Chief

Date: July 17, 1995

EXHIBIT "A"
PROPERTY DESCRIPTION

PARCEL MAP

THE BLOCK BOUNDED BY 5TH AND 6TH "H" AND "I"
STREETS ACCORDING TO THE PLAT OR PLAN OF THE CITY
AND A PORTION OF PARCEL A,

120 P.M. 10

CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA
SCALE: 1" = 50'

SHEET 2 OF 2

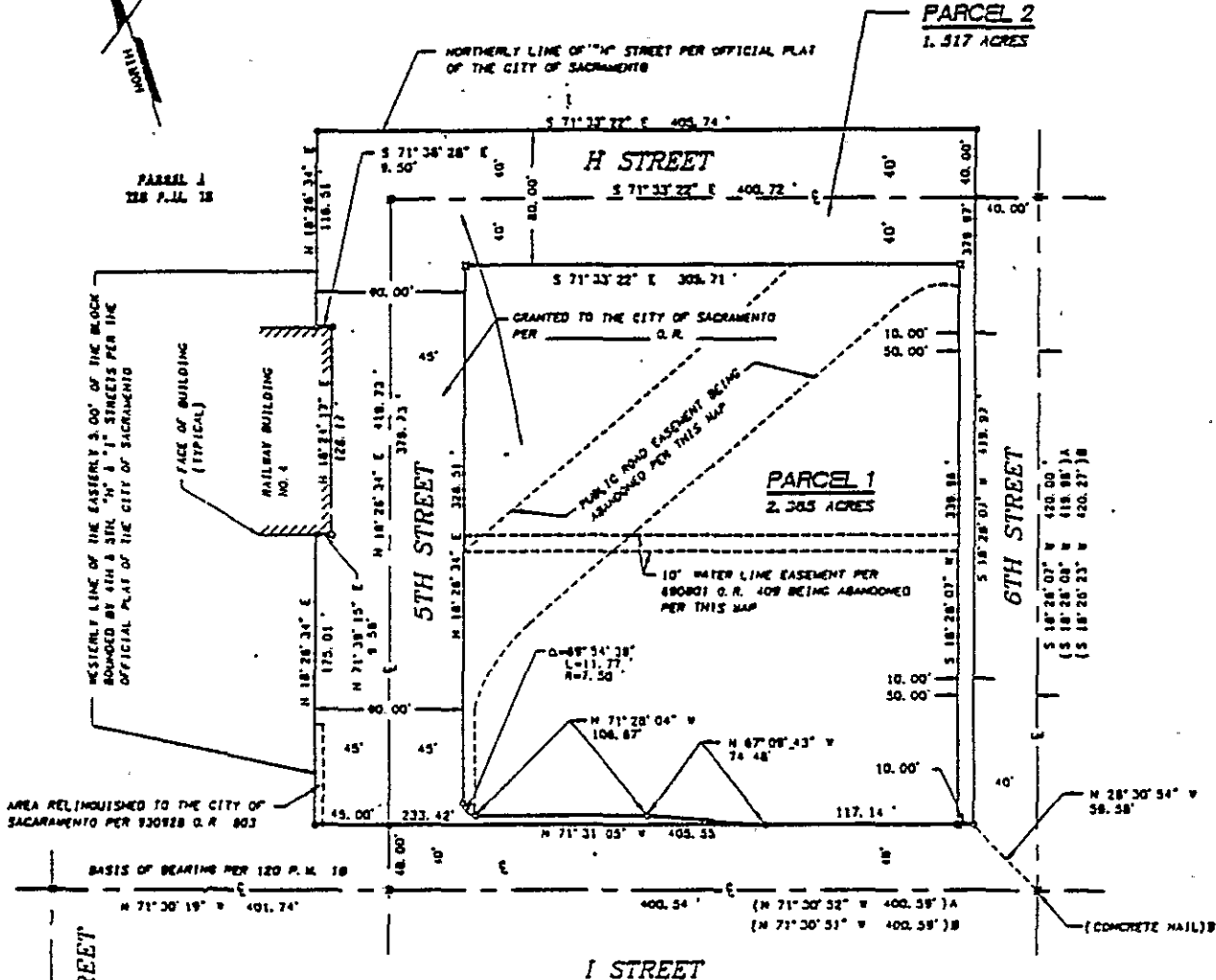
WONG & ASSOCIATES

ENGINEERING-SURVEYING-LAND PLANNING
4111 EIGHTY SECOND STREET
SACRAMENTO, CALIFORNIA 95826

PARCEL 2
1.517 ACRES

PARCEL 1
228 P.M. 18

PARCEL 1
2.385 ACRES



BASIS OF BEARINGS

THE BEARINGS ON THIS MAP ARE BASED ON THE FOUND MONUMENTS
ON THE CENTERLINE OF I STREET BETWEEN 5TH AND 6TH STREETS
PER 120 P.M. 10. THE BEARING BEING N 71° 30' 19" W

LEGEND

- R FOUND P.M. NAIL AS NOTED
- R FOUND P.M. NAIL PER 120 P.M. 10
- W SET 5/8" PEGBAR WITH TAG L.S. 5035
- (A) RECORD DATA PER 25 P.S. 18
- (B) RECORD DATA PER 120 P.M. 10
- * DIMENSION PRINT NOTHING SET OR FOUND

EXHIBIT "A"
PROPERTY DESCRIPTION
PARCEL MAP

THE BLOCK BOUNDED BY 5TH AND 6TH "H" AND "I"
STREETS ACCORDING TO THE PLAT OR PLAN OF THE CITY
OF SACRAMENTO AND A PORTION OF PARCEL A,
120 P.M. 10

CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA
SCALE: NONE JANUARY, 1995
SHEET 1 OF 2

WONG & ASSOCIATES
ENGINEERING-SURVEYING-LAND PLANNING
4111 EIGHTY SECOND STREET
SACRAMENTO, CALIFORNIA 95826

OWNER'S STATEMENT

THE UNDERSIGNED HEREBY CONSENTS TO THE PREPARATION AND RECORDATION
OF THIS PARCEL MAP.
PARCEL 2 IS HEREBY DESIGNATED AS A PUBLIC STREET TO BE USED FOR
THAT PURPOSE.

W. D. H. P. 100
CITY OF SACRAMENTO, A MUNICIPAL CORPORATION
CITY MANAGER

NOTARY'S STATEMENT

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO)
ON 1-26-95 BEFORE ME, THOMAS M. GLENN
PERSONALLY APPEARED WILLIAM A. SARAE, PERSONALLY
KNOWN TO ME BY PROVIDING ME WITH PHOTOGRAPH IDENTIFICATION
TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN
INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/they EXECUTED THE
SAME IN HIS/HER/their AUTHORIZED CAPACITY(IES) AND THAT BY HIS/
HER/their SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), ON THE
ENTIRETY UPON BEHALF OF WHOM THE PERSON(S) ACTED, EXECUTED THE
INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

Thomas M. Glenn
NOTARY PUBLIC
MY COMMISSION EXPIRES ON August 1, 1995.
MY PRINCIPAL PLACE OF BUSINESS IS Sacramento, COUNTY.



SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED
UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE
SUBDIVISION MAP ACT AT THE REQUEST OF THE CITY OF SACRAMENTO IN
DECEMBER, 1992. I HEREBY CERTIFY THAT THIS PARCEL MAP CONFORMS TO
THE APPROVED TENTATIVE MAP AND THE CONDITIONS OF APPROVAL THEREOF.
ALL MONUMENTS SHOWN HEREON ARE OF THE CHARACTER AND OCCUPY THE
POSITIONS INDICATED. THE MONUMENTS ARE SUFFICIENT TO ENABLE THE
SURVEY TO BE RETRACED.

David Francis Wong
CART 1 (JOINT FORM) L.S. 5035
EXPIRES 12-31-97



CITY ENGINEER'S STATEMENT

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS PARCEL MAP AND FIND IT
TO BE SUBSTANTIALLY THE SAME AS THE TENTATIVE MAP SUBMITTED TO THE
CITY PLANNING COMMISSION OF THE CITY OF SACRAMENTO AND ANY APPROVED
ALTERATIONS THEREOF. THAT ALL PROVISIONS OF THE SUBDIVISION MAP
ACT AND ALL APPLICABLE CITY ORDINANCES HAVE BEEN COMPLIED WITH,
AND THAT I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

DATED: 1-26-95
Deanne V. Moore
DIVISION MANAGER
TRANSPORTATION AND ENGINEERING PLANNING DIVISION
CITY OF SACRAMENTO
P.O. BOX 19475
EXPIRATION DATE: 9-30-97



CITY CLERK'S STATEMENT

I HEREBY CERTIFY THAT THE CITY COUNCIL OF THE CITY OF SACRAMENTO
HAS APPROVED THIS PARCEL MAP ENTITLED "THE BLOCK BOUNDED BY 5TH
AND 6TH "H" AND "I" STREETS ACCORDING TO THE PLAT OR PLAN OF THE
CITY OF SACRAMENTO AND A PORTION OF PARCEL A, 120 P.M. 10".

Valerie C. Buchanan
CITY CLERK, CITY OF SACRAMENTO
1-25-95
DATE

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 1995.
AT _____, IN BOOK _____ OF PARCEL MAPS AT PAGE _____
_____ AT THE REQUEST OF WONG & ASSOCIATES. TITLE TO THE LAND
INCLUDED IN THIS PARCEL MAP BEING VESTED AS PER CERTIFICATE NO.
_____ ON FILE IN THIS OFFICE.

RECORDER OF THE COUNTY OF SACRAMENTO

BY: _____
DEPUTY

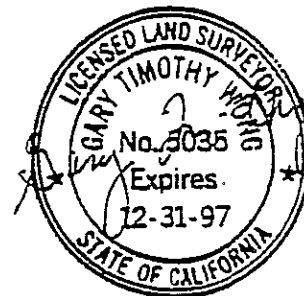
EXHIBIT "B"

DESCRIPTION OF PORTION OF PROPERTY FROM SACRAMENTO STATION SITE

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL A, AS SAID PARCEL A IS SHOWN ON THAT CERTAIN PARCEL MAP ENTITLED "PORTION OF PROJECTED SECTIONS 35 & 36 T. 9 N., R. 4 E., M.D.M." FILED IN THE OFFICE OF THE RECORDER OF SACRAMENTO COUNTY IN BOOK 120 OF PARCEL MAPS, AT PAGE 10 AND ALL THAT BLOCK BOUNDED BY 5TH AND 6TH, "H" AND "I" STREETS OF THE CITY OF SACRAMENTO, ACCORDING TO THE MAP OR PLAN THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID "H" STREET LOCATED A DISTANCE OF 45.00 FEET MEASURED AT RIGHT ANGLES TO THE CENTERLINE OF SAID 5TH STREET; THENCE LEAVING SAID POINT OF BEGINNING AND ALONG SAID SOUTHERLY LINE OF "H" STREET SOUTH $71^{\circ}33'22''$ EAST 198.66 FEET TO THE SOUTHEASTERLY LINE OF SAID PARCEL A; THENCE LEAVING SAID SOUTHERLY LINE OF "H" STREET AND ALONG SAID SOUTHEASTERLY LINE OF PARCEL A SOUTH $67^{\circ}15'45''$ WEST 263.95 FEET TO A POINT LOCATED A DISTANCE OF 45.00 FEET EASTERLY MEASURED AT RIGHT ANGLES TO THE CENTERLINE OF 5TH STREET; THENCE LEAVING SAID SOUTHEASTERLY LINE OF PARCEL A AND PARALLEL WITH THE CENTERLINE OF 5TH STREET NORTH $18^{\circ}26'34''$ EAST 173.80 FEET TO THE POINT OF BEGINNING CONTAINING 0.396 OF AN ACRE MORE OR LESS.



CERTIFICATE OF ACKNOWLEDGEMENT

State of CALIFORNIA)
County of SACRAMENTO)

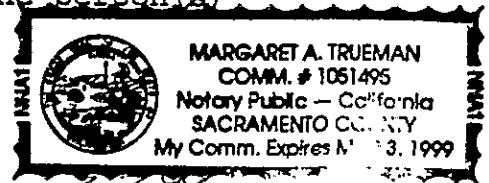
On JULY 17, 1995, before me MARGARET TRUEMAN, NOTARY PUBLIC
personally appeared JAMES LEE THOSVOLD, personally known
to me (or proved to me on the basis of satisfactory evidence) to
be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he or she executed the
same in his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.

Margaret A. Trueman

Notary Public

My commission expires: 3-3-99



(Seal)

State of _____)
County of _____)

On _____, before me _____,
personally appeared _____, personally known
to me (or proved to me on the basis of satisfactory evidence) to
be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he or she executed the
same in his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My commission expires:

(Seal)

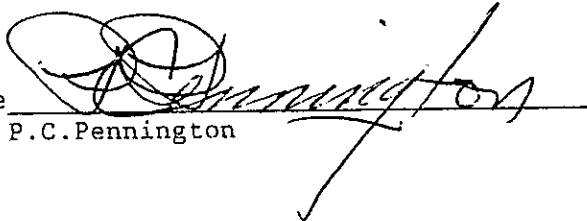
STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

On July 19, 1995 before me, P.C. Pennington, personally appeared Barry K. Dauphinee personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature


P.C. Pennington

